



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

MAY 13 2019

CERTIFIED MAIL 7016 1970 0000 9792 0875  
RETURN RECEIPT REQUESTED

Mr. Kenji Sumino  
CEO  
GReddy Performance Products, Inc.  
9 Vanderbilt  
Irvine, California 92618

Re: Notice of Violation of the Clean Air Act

Dear Mr. Sumino:

The United States Environmental Protection Agency (EPA) has investigated and continues to investigate GReddy Performance Products, Inc., (GReddy) for compliance with section 203(a) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a), and its implementing regulations. As detailed in this Notice of Violation (NOV), the EPA has determined that GReddy sold parts or components for motor vehicle engines that bypass, defeat, or render inoperative devices or elements of design of motor vehicles that were installed by the original equipment manufacturer to enable the motor vehicles to comply with the CAA emission standards. EPA has also determined that GReddy knew, or should have known, that these parts or components were offered for sale or installed for such use or put to such use. Therefore, GReddy violated section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

*Law Governing Alleged Violations*

This Notice of Violation arises under Part A of Title II of the Act, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws were enacted to reduce air pollution from mobile sources of air pollution. In creating the Act, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.”<sup>1</sup> Congress’ purpose in creating the Act, in part, was “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.”<sup>2</sup>

EPA administers a certification program to ensure that every vehicle introduced into United States (U.S.) commerce satisfies applicable emission standards. Under this program, EPA issues certificates of conformity (COCs), and thereby approves the introduction of motor vehicles into U.S. commerce. To

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<sup>1</sup> CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2).

<sup>2</sup> CAA § 101(b)(1)–(2), 42 U.S.C. § 7401(b)(1)–(2).

obtain a COC, a motor vehicle manufacturer must submit a COC application to the EPA for each test group of vehicles that it intends to enter into U.S. commerce. 40 C.F.R. § 86.1844-01. Motor vehicle manufacturers employ many devices and elements of design to meet emission standards to obtain COCs. “Element of design” means “any control system (*i.e.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.” 40 C.F.R. §§ 86.094-2 and 86.1803-01.

The CAA defines a “motor vehicle” as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” Section 216(2) of the CAA, 42 U.S.C. § 7550(1). In addition, the exclusion and exemption of motor vehicle and motor vehicle engine regulations clarify that

“[f]or the purpose of determining the applicability of section 216(2) of the CAA, a vehicle which is self-propelled and capable of transporting a person or persons or any material or any permanently or temporarily affixed apparatus shall be deemed a motor vehicle, unless any one of more of the criteria set forth below are met, in which case the vehicle shall be deemed not a motor vehicle: (1) The vehicle cannot exceed a maximum speed of 25 miles per hour over level, paved surfaces; or (2) The vehicle lacks features customarily associated with safe and practical street or highway use, ... ; or (3) The vehicle exhibits features which render its use on a street or highway unsafe, impractical, or highly unlikely. . . .” 40 C.F.R. § 85.1703.

The CAA makes it a violation “for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.” CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B); 40 C.F.R. § 86.1854-12(a)(3)(ii). It is also a violation to cause any of the foregoing acts. CAA § 203(a), 42 U.S.C. § 7522(a); 40 C.F.R. § 86-1854-12(a).

The CAA and the applicable regulations also prohibit any person from failing or refusing to make reports or provide information required under section 208 of the CAA, 42 U.S.C. § 7542. CAA § 203(a)(2), 42 U.S.C. § 7522(a)(2); 40 C.F.R. § 86.1854-12(a)(2)(i).

Finally, the CAA provides that persons subject to the requirements of the CAA, and the applicable regulations, shall establish and maintain records, and provide information, which EPA may require to determine whether the person has acted, or is acting, in compliance with the CAA and its regulations. CAA § 208(a), 42 U.S.C. § 7542(a).

### *Factual Background*

GReddy advertises and offers for sale online certain parts or components for use on light-duty motor vehicles that are manufactured by the Ford Motor Company (Ford), Honda Motor Company, Ltd. (Honda), Nissan Motor Company, Limited (Nissan), Subaru Corporation (Subaru), and Toyota Motor Corporation (Toyota); which bypass, defeat, or render inoperative a device or element of design that is

used to control emissions on the motor vehicle. The parts and components that are the subject matter of this NOV are:

- (1) Exhaust systems that are used to eliminate a catalytic converter. The catalytic converter is a primary emission control component that is used to reduce toxic byproducts of burning fuel (*e.g.*, nitrogen oxides, carbon monoxide, and hydrocarbons) to less hazardous byproducts such as carbon dioxide, water vapor, and nitrogen gas.

On August 6, 2018, pursuant to section 208 of the CAA, EPA issued to GReddy an Information Request concerning, among other things, the hardware, software, and exhaust parts and components that GReddy offered for sale or sold since January 1, 2016, through the date of the letter.

GReddy responded to EPA's Information Request through its correspondence dated October 4, 2018. GReddy's response to the Information Request revealed the following:

1. As described in the enclosed Table 1, between January 1, 2016, and October 3, 2018, GReddy sold 231 exhaust systems in violation of the CAA. These exhaust systems are used to bypass, defeat, or render inoperative the catalytic converter on certain light-duty motor vehicles (the Subject Exhaust Systems). The Subject Exhaust Systems include Downpipes, Mid Pipes, and Tuner Turbo Kits.
2. GReddy manufactures, advertises, and sells the Subject Exhaust Systems, depending on the motor vehicle's make and model, for use on 1983 to current model year motor vehicles that are manufactured by Ford, Honda, Nissan, Subaru, and Toyota.

#### *Alleged Defeat Device Violations*

The Subject Exhaust Systems function as defeat devices by replacing and therefore rendering inoperative the motor vehicle's original exhaust system which included a catalyst to control emissions. The Subject Exhaust Systems include instruction manuals instructing users to remove the OEM exhaust system which included a catalyst and replace it with a Subject Exhaust System which does not retain an OEM catalyst.

Due to the design and purpose of the Subject Exhaust Systems as shown by GReddy's website, literature, and disclaimer, GReddy knew, or should have known, that the Subject Exhaust Systems were offered for sale or sold in order to bypass, defeat, or render inoperative devices or elements of design that control emissions of regulated air pollutants. In its company catalog and installation literature, GReddy includes disclaimer language that appears to limit the use of the Subject Exhaust Systems to competition, off-road use, or racing-only vehicles. The GReddy company catalog states: "Before purchasing, installing or using any GReddy/GPP (GReddy Performance Products) product, please check with your local vehicle authorities. It is the responsibility of the installer and/or user of this product to ensure compliance with all applicable local and federal laws and regulations. More information can be found on the SEMA Action Network website: [www.seman.com/emissions](http://www.seman.com/emissions) for state by state details in the USA. In many states it is unlawful to tamper with your vehicle's emissions equipment. Some GReddy / GPP products are designed and sold for sanctioned off-road/competition, non-emissions controlled vehicles only and may never be used on a public road or highway. Using these competition

(race) use GReddy/GPP products for street/road use on public roads or highways is prohibited by law unless a specific regulatory exemption exists.”

However, language from its own manuals and other instructions demonstrates that GReddy knew that the Subject Exhaust Systems could be installed and used in vehicles for not only racing but also street use on public roads in violation of the CAA. For example, in an internet advertisement for its exhaust systems for Nissan GT-Rs, GReddy states:

The ideal exhaust for the R35 GT-R is the 94mm GReddy Supreme TI. *The design provides great performance for upgraded GT-Rs but still comfortable for milder, daily-driven GT-Rs.* The large dual oval mufflers provide excellent sound suppression and sound quality, while large piping frees up power for the twin turbo VR engine. This version comes with a huge dual 80mm (3.15") to 94mm (3.7") Y-pipe. The construction is made up of carefully hand-built 94mm piping is pain-painstakingly "inch-welded" for excellent fitment and flow. Revised larger 125mm quad staggered Tips complete each 94mm R35 GReddy Supreme Ti system.

(Emphasis added).

Each of the Subject Exhaust Systems functions as a defeat device by bypassing, defeating, or rendering inoperative the motor vehicle's catalytic converter. The EPA has maintained since the CAA amendments of 1990 that "any pipe used to replace the section of exhaust where the catalytic converter should be, would be considered illegal under the Clean Air Act." EPA's *Exhaust System Repair Guidelines*, March 13, 1991. In addition, many or all of the Subject Exhaust Systems manufactured or sold by GReddy were designed and marketed for use on specific makes and models of Ford, Honda, Nissan, Subaru, and Toyota. Ford, Honda, Nissan, Subaru, and Toyota sought and obtained COCs from the EPA for these motor vehicles and engines. This certification unequivocally demonstrates that these vehicles and engines are "motor vehicles" and "motor vehicle engines" under the Act. GReddy knew, or should have known, that the Subject Exhaust Systems were offered for sale, sold, or installed in order to bypass, defeat, or render inoperative devices or elements of design that control emissions of regulated air pollutants from a motor vehicle or motor vehicle engine. GReddy's sale or distribution of the 231 Subject Exhaust Systems between January 1, 2016, and October 3, 2018, constitutes 231 separate violations of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

Based on the foregoing, GReddy committed 231 violations of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B) by selling 231 Subject Exhaust Systems.

#### *Enforcement Authority*

The EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court.<sup>3</sup> Persons violating section 203(a)(3)(A) or (B) of the Act, 42

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<sup>3</sup> CAA §§ 204, 205, 42 U.S.C. §§ 7523, 7524.

U.S.C. § 7522(a)(3)(A) or (B), are subject to an injunction under section 204 of the Act, 42 U.S.C. § 7523, and a civil penalty of up to \$4,619 for each violation.<sup>4</sup>

The EPA is available to discuss this matter with you in further detail upon your request. Within 14 days of receipt of this Notice of Violation, please contact Andy Zellinger, Enforcement Officer, at (415) 972-3093 or [Zellinger.andrew@epa.gov](mailto:Zellinger.andrew@epa.gov), or have your attorney contact David Kim, Assistant Regional Counsel, at (415) 972-3882 or [kim.david@epa.gov](mailto:kim.david@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amy C. Miller', is written over the typed name.

Amy C. Miller  
Acting Director  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 9

Enclosures: Table 1

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<sup>4</sup> See CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4; Memorandum from Susan Parker Bodine, U.S. EPA, Assistant Administrator, to Regional Administrators, Amendments to the EPA's Civil Monetary Penalty Policies to Account for Inflation (effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule (Jan. 11, 2018).



**TABLE 1****GReddy violations of CAA Section 203 for the period 2016-2018 for offering sale of or sale of 231  
Subject Exhaust Systems**

| Part Number | Vehicle Application (Make) | Vehicle Application (model) | Vehicle Application (model years) | Total Quantity Sold 1/1/2016 - 10/3/2018 |
|-------------|----------------------------|-----------------------------|-----------------------------------|------------------------------------------|
| 10590701    | Ford                       | Focus ST                    | 2013-2016                         | 7                                        |
| 10520601    | Nissan                     | GTR                         | 2009+                             | 20                                       |
| 10520602    | Nissan                     | GTR                         | 2009+                             | 14                                       |
| 10118106    | Scion                      | tC                          | 2011-2015                         | 61                                       |
| 10118500    | Lexus                      | ISF                         | 2007-2015                         | 19                                       |
| 10128294    | Nissan                     | GTR                         | 2009+                             | 35                                       |
| 11510094    | Scion/ Subaru/ Toyota      | FRS/ BRZ/ 86                | 2013+                             | 47                                       |
| 11510407    | Scion/ Subaru/ Toyota      | FRS/ BRZ/ 86                | 2013+                             | 12                                       |
| 11518000    | Scion/ Subaru/ Toyota      | FRS/ BRZ/ 86                | 2013+                             | 12                                       |
| 11550403    | Honda                      | CRZ                         | 2010-2016                         | 4                                        |
|             |                            |                             |                                   | <b>231</b>                               |